

AMENDED IN SENATE AUGUST 25, 2005

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE JUNE 30, 2005

AMENDED IN SENATE JUNE 23, 2005

AMENDED IN ASSEMBLY MAY 16, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1595

Introduced by Assembly Members Evans and Spitzer
(Coauthor: Senator Dunn)

February 22, 2005

An act to amend Section 6254.21 of the Government Code, relating to public officials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1595, as amended, Evans. Public official: personal information.

Existing law prohibits a state or local agency from posting the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual. Existing law also prohibits a person from knowingly posting on the Internet the home address or telephone number of an elected or appointed official or of the official's residing spouse or child with intent to cause imminent great bodily harm to that individual.

This bill would prohibit a person, business, or association from publicly posting or publicly displaying on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or

association to not disclose his or her home address or telephone number, or from soliciting, selling, or trading on the Internet the home address or telephone number of an elected or appointed official with the intent to cause bodily harm to the official or to any person residing at the official's home address. It would provide various remedies for violation of these provisions. It would limit the liability of an interactive computer service or access software provider under these provisions. This bill also would add to the list of elected or appointed officials covered by all of the foregoing provisions state administrative law judges, federal judges, and federal defenders, Members of the United States Congress, and appointees of the President.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.21 of the Government Code is
2 amended to read:
3 6254.21. (a) No state or local agency shall post the home
4 address or telephone number of any elected or appointed official
5 on the Internet without first obtaining the written permission of
6 that individual.
7 (b) No person shall knowingly post the home address or
8 telephone number of any elected or appointed official, or of the
9 official's residing spouse or child on the Internet knowing that
10 person is an elected or appointed official and intending to cause
11 imminent great bodily harm that is likely to occur or threatening
12 to cause imminent great bodily harm to that individual. A
13 violation of this subdivision is a misdemeanor. A violation of this
14 subdivision that leads to the bodily injury of the official, or his or
15 her residing spouse or child, is a misdemeanor or a felony.
16 (c) (1) No person, business, or association shall publicly post
17 or publicly display on the Internet the home address or telephone
18 number of any elected or appointed official if that official has
19 made a written demand of that person, business, or association to
20 not disclose his or her home address or telephone number. A
21 written demand made under this paragraph by a state
22 constitutional officer, a mayor, or a Member of the Legislature, a
23 city council, or a board of supervisors shall include a statement

describing a threat or fear for the safety of that official or of any person residing at the official's home address. *A written demand made under this paragraph by an elected official shall be effective for four years, regardless of whether or not the official's term has expired prior to the end of the four-year period.* For this purpose, "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) An official whose home address or telephone number is made public as a result of a violation of paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it *may grant injunctive or declarative relief and* shall award the official court costs and reasonable attorney's fees.

(d) (1) No person, business, or association shall solicit, sell, or trade on the Internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official's home address.

(2) Notwithstanding any other provision of law, an official whose home address or telephone number is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it shall award damages to that official in an amount up to a maximum of three times the actual damages but in no case less than ~~ten thousand dollars (\$10,000)~~ *four thousand dollars (\$4,000)*.

(e) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause imminent great bodily harm that is likely to occur or threatens to cause imminent great bodily harm to an elected or appointed official.

(f) For purposes of this section, "elected or appointed official" includes, but is not limited to, all of the following:

- (1) State constitutional officers.
- (2) Members of the Legislature.
- (3) Judges and court commissioners.
- (4) District attorneys.
- (5) Public defenders.

- 1 (6) Members of a city council.
- 2 (7) Members of a board of supervisors.
- 3 (8) Appointees of the Governor.
- 4 (9) Appointees of the Legislature.
- 5 (10) Mayors.
- 6 (11) City attorneys.
- 7 (12) Police chiefs and sheriffs.
- 8 (13) A public safety official as defined in Section 6254.24.
- 9 (14) State administrative law judges.
- 10 (15) Federal judges and federal defenders.
- 11 (16) Members of the United States Congress and appointees of
- 12 the President.
- 13 (g) Nothing in this section is intended to preclude punishment
- 14 instead under Sections 69, 76, or 422 of the Penal Code, or any
- 15 other provision of law.